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SUBJECT: CALLING ALL SMUGGLERS - BRAZILIAN "SACOLEIROS" BILL

REFTEL: 07 Sao Paulo 242

11. (SBU) SUMMARY: A Brazilian bill intended to improve customs processing at the Paraguayan border would likely serve to increase opportunities for the importing of counterfeit goods and smuggling of all types. The so-called "Sacoleiros" (or peddlers) bill would allow small-scale importers to register and receive a lowered, uniform customs fee on certain goods being brought into Brazil across the Paraguayan border at Ciudad del Este. Opponents of the bill complain that the primary Paraguayan export to Brazil is counterfeit goods and, by creating this expedited channel with no provisions for increased enforcement, Brazil would just facilitate and legitimize such trafficking. The bill, which had been on a priority fast track, has been slowed for 30 days of further deliberation as a result of a public hearing May 8. Mission Brazil's IPR working group is taking an active interest in the bill's fate.  
END SUMMARY

12. (U) The Sacoleiros bill provides an opportunity for small scale importers to register with the Receita Federal (RF), Brazil's customs service, and receive a reduced tariff rate of 42.25 % on products brought into Brazil up to a specified annual value. The importers would have to purchase the goods from registered stores in Paraguay which would transmit documentation of the purchase electronically (through a system already in place) to the RF. The RF would then use the documentation to confirm the purchase and assess the flat tariff based on a predetermined book value. The bill uses a positive list of items included in the program, which includes many electronic products, as well as DVDs and CDs. Though the bill's supporters envision a special customs lane at the border for these importers with inspections, there are no provisions made for enhanced customs oversights at an already overwhelmed border. (Reftel A) The bill was put forward by the president as an urgent measure which takes precedence over other items on the legislative docket. The bill passed quickly through the lower house with virtually no fanfare or public discussion. Three senate committees slowed the process by calling for a joint public hearing.

13. (SBU) At the public hearing which took place May 8, Chief of the Mercosul Division at the Foreign Ministry, Bruno de Risios Bath, stated the bill had its origin in a plea from Paraguayan officials in 2005 to help control the tense situation at the border. Detractors later seized onto this fact and argued that a bill that had its origins in another capital needed to be carefully assessed for its effect on Brazilian interests. The Secretary of RF, Jorge Rachid, and his Deputy testified as to the nature of the plans at the border and how this could help manage the chaotic situation in Ciudad del Este. They argued the bill will streamline the customs

process, as well as possibly induce small scale smugglers to comply with the law by lowering the cost and simplifying the procedures. In addition, there is hope the bill might also create social pressure to comply. Ana Lucia Gomes, head of the Council to Combat Piracy, told Econoff separately the idea is that smugglers would self-police in order to avoid allowing free-riders that wouldn't be paying the uniform 42.25 percent tariff.

14. (U) During the hearing, representatives from the Brazilian Institute for Defense of Competitiveness (IBDC), Brazilian Association for the Electrical and Electronics Industry (ABINE), the National Manufacturers Association for Electrical Products (ELETROS), the Latin American Motion Picture Association (MPA), the Brazilian Association for Production of Discs (ABPD), and the Association of Importers at Brasilia's infamous "Paraguayan" market all spoke. All but the last, who argued the benefits to the little importer struggling to compete, were opposed to the bill. Each industry spokesman spelled out the damage done to his industry by pirated goods and those coming from Paraguay particularly. They also stressed the fact that these goods would have no consumer protection, would not meet Brazilian industry standards, and would have no provisions for environmentally safe disposal (particularly of electronic goods). Specifically addressing the threat from across the Paraguayan border, Humberto Barbato of ABINE noted that only 20% of items crossing that border were now being inspected, calling it paradoxical to expect a workload increase to help improve control. Lourival Kicula of Eletros questioned whether the proposed bill would be acceptable under either Mercosul or WTO rules. Marcio Goncalves of MPA noted that Paraguay is already the source of 87% of pirated DVDs that are apprehended in Brazil, leading to an annual \$198 million loss. However, it may have been Edson Vismona of IBDC who made the point that resonated most with the Senators. He called

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the tariff reduction a subsidy to Chinese and Taiwanese manufacturers of pirated goods and showed a Brazilian newspaper ad for submarket priced products with the website address [www.chinadirect.com](http://www.chinadirect.com).

15. (U) In addition to the aid for counterfeiters theme, senators questioned the efficacy of a 42% tariff as an inducement to cooperate with customs for those who currently pay nothing. Others were concerned that this might set a precedent for other border regions. Prominent opposition senator Arthur Virgilio (Brazilian Social Democracy Party, opposition; of Amazonas) admonished RF that they should not be involved in politics and further that the government should not be in the business of aiding those who traffic in pirated goods. Others commented that the bill had been rushed through and not even RF, much less industry, knew for sure which items were to be included on the positive list for imports affected by this bill.

16. (SBU) Former president and sitting Senator Jose Sarney (Brazilian Democratic Movement Party, government; of Amapa) a close government ally, expressed his faith in RF. RF Secretary Rachid noted that RF was constantly working to improve border enforcement. Though Rachid acknowledged they would never achieve 100% compliance, he urged the Senate not to let the perfect be the enemy of the good.

(Note: in conversations with Embassy and business community interlocutors, Rachid has seemed more resigned to, rather than supportive of, this bill but he carried the government's water faithfully in the hearing. End note.) Other coalition senators cautioned that the bill was an important signal to Paraguay at a critical time in the relationship, and some linked this bill to an attempt to head off controversial Paraguayan demands to renegotiate contacted energy rates from the bilateral hydroelectric dam, Itaipu.

In the end, the Senators agreed to disagree for the time being, calling for a 30 day period for further debate before taking a vote on the measure.

16. (SBU) COMMENT: Mission Brazil is closely following this expedited proposed legislation. Ambassador Sobel has weighed in with key senators and we've reached out to government contacts and the international community in Brasilia to raise awareness of the potential negative ramifications of the bill. We have liaised with the private sector as they prepared for productive testimony at the

hearing. We also have reached out to the Brazilian law enforcement community; many were not aware of the bill, but those who were, have stated that they oppose this bill. We will continue to ensure that there is attention being paid to the likely effects of this bill. Passage could be costly to U.S. industry and could add to the border enforcement problems in the triborder area. Much of the industry community has been reluctant to vocally oppose what they view as a potentially disastrous bill, because it has the backing of the President and they view resistance as a losing battle. We are hopeful that the 30 day debate period will lead to some serious reconsideration, and if necessary perhaps reformulation, of this bill's unintended negative effects. END COMMENT.

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